

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2473 OF 2004

Baban Rama Pardhi ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mrs.Smita R. Kadu-Gawai, for the Applicant.

Mr.V.B. Konde Deshmukh, A.P.P., for the
Respondent.

...

CORAM : A.M.KHANWILKAR, J.

22nd February 2005

P.C.:

. Heard Counsel for the parties. Rule.
Rule made returnable forthwith by consent. Mr.
Konde Deshmukh, A.P.P., waives notice for the
Respondent. As short question is involved,
petition is taken up for final disposal forthwith
by consent.

2. This petition takes exception to the

order passed by the Deputy Inspector-General of Prisons, Western Division, Pune, dated 7th September 2004 rejecting the Petitioner's application for release on furlough leave. Two reasons have been mentioned in the order. The first reason is that no person is coming forward to stand surety for the Petitioner. The second reason is that the relatives of the Petitioner apprehend that if the Petitioner is released on furlough leave, their lives will be in danger. Both these grounds can be taken care of on the following reasons.

3. Insofar as the former is concerned, Counsel for the Petitioner has rightly placed reliance on the decision of our High Court reported in 2003 Vol.105(3) Bom.L.R. 726 in the case of Dipak s/o Hari Kivkalwar v. The State of Maharashtra, through D.I.G. of Prison, Eastern Division, Nagpur and another, to contend that, in such a situation, the authority can dispense with the surety by requiring the petitioner to offer cash security, which is lying in his account with the jail authority. Counsel for the Petitioner states across the Bar that amount lying in the

account of the Petitioner is over Rs.5,000/-. This position is not disputed by the learned A.P.P. If it is so, applying the ratio of the reported decision, the first ground can be no impediment in considering prayer for furlough leave if the Petitioner was to furnish cash security in the sum of Rs.5,000/-, which amount is already lying in the account of the Petitioner with the jail authorities.

4. The second ground which has weighed with the authority is also no impediment in releasing the Petitioner on furlough leave, inasmuch as the Petitioner can be released by imposing strict conditions, which would include that the Petitioner will not enter the relevant area where the relatives of the Petitioner are residing and who apprehend that there is danger to their lives, if the Petitioner is released on furlough leave.

5. Accordingly, this petition ought to succeed with directions to the concerned authority to allow the application preferred by the Petitioner for furlough leave, as per the

Rules, by imposing appropriate conditions, as referred to above. Petition disposed of on the above terms.